

JUDGE HOLWELL

08 CV 7065

SOL:SBJ:SR  
(08)30147

UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF NEW YORK

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ELAINE L. CHAO, Secretary of Labor,  
United States Department of Labor,

Plaintiff,

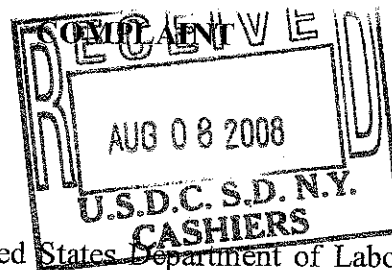
v.

ADVANCED PROFESSIONAL MARKETING, INC.  
and MARISSA BECK, Individually,

Defendants.  
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Civil Action

File No.



Plaintiff, ELAINE L. CHAO, Secretary of Labor, United States Department of Labor, brings this action under Sections 16(c) and 17 of the Fair Labor Standards Act of 1938, as amended, (29 U.S.C. §201, et seq.), ("the Act"), alleging that defendants violated sections 7, 11(c), 15(a)(2), and 15(a)(5) of the Act.

I

Jurisdiction of this action is conferred upon the Court by Section 17 of the Act and 28 U.S.C. Sections 1331 and 1345.

II

Defendant ADVANCED PROFESSIONAL MARKETING, INC. is a corporation duly organized under the laws of New York having its principal office and place of business at 229 East 21<sup>st</sup> Street, New York, New York 10010, within the jurisdiction of this court, where it is engaged in the business of health care services provider.

III

The defendant corporation has regulated the employment of all persons employed by the corporation, acted directly and indirectly in the corporation's interest in relation to the employees, and is thus an employer of its employees within the meaning of section 3(d) of the Act.

IV

Defendant MARISSA BECK, who has maintained a place of business at 229 East 21<sup>st</sup> Street, New York, New York 10010, within the jurisdiction of this court, is President and Owner of the defendant corporation, in active control and management of defendant corporation, regulated the employment of persons employed by defendant corporation, acted directly and indirectly in the interest of defendant corporation in relation to the employees, and is thus an employer of the employees within the meaning of section 3(d) of the Act.

V

The business activities of the defendants, as described, are related and performed through unified operation or common control for a common business purpose and constitute an enterprise within the meaning of section 3(r) of the Act.

VI

Defendants have employed and are employing employees at their place of business in the activities of an enterprise engaged in commerce or in the production of goods for commerce, including employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce. The enterprise has had an annual gross volume of sales made or business done in an amount not less than \$500,000.00. Therefore, the employees

are employed in an enterprise engaged in commerce or in the production of goods for commerce within the meaning of section 3(s)(1)(A) of the Act.

## VII

Defendants willfully and repeatedly are violating the provisions of sections 7 and 15(a)(2) of the Act by employing many of their employees in an enterprise engaged in commerce or in the production of goods for commerce, for workweeks longer than those prescribed in section 7 of the Act without compensating the employees for their employment in excess of the prescribed hours at rates not less than one and one-half times the regular rates at which they were employed. Therefore, defendants are liable for unpaid overtime compensation and an equal amount in liquidated damages under section 16(c) of the Act, or, in the event liquidated damages are not awarded, unpaid overtime compensation and prejudgment interest on said unpaid overtime compensation under section 17 of the Act.

## VIII

Defendants are violating the provisions of sections 11(c) and 15(a)(5) of the Act, in that defendants failed to make, keep, and preserve adequate and accurate records of their employees and of the wages, hours, and other conditions of employment which they maintained as prescribed by the Regulations issued and found at 29 CFR Part 516; more specifically, defendants failed to keep accurate records of hours worked by employees and wages paid to employees.

## IX

Defendants have violated the provisions of the Act as alleged above since at least October 11, 2004.

WHEREFORE, cause having been shown, plaintiff prays for judgment against defendants providing the following relief:

(1) For an injunction issued pursuant to section 17 of the Act permanently restraining defendants, their officers, agents, servants, employees, and those persons in active concert or participation with defendant, from violating the provisions of sections 7, 11(c), 15(a)(2), and 15(a)(5) of the Act; and

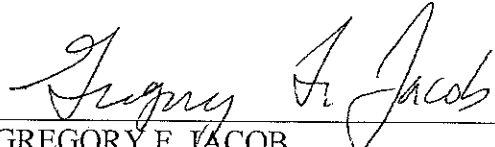
(2) For an order pursuant to section 16(c), of the Act finding defendants liable for unpaid overtime compensation found due defendants' employees listed on the attached Exhibit A and an equal amount of liquidated damages (additional unpaid overtime compensation and liquidated damages may be owed to certain employees presently unknown to plaintiff for the period covered by this Complaint); or,

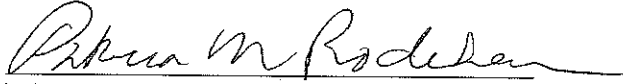
(3) In the event liquidated damages are not awarded, for an injunction issued pursuant to section 17 of the Act restraining defendants, their officers, agents servants, employees, and those persons in active concert or participation with defendants, from withholding the amount of unpaid overtime compensation found due defendants' employees and prejudgment interest computed at the underpayment rate established by the Secretary of Treasury pursuant to 26 U.S.C. §6621; and

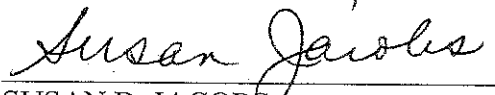
(4) For an order awarding plaintiff the cost of this action; and

(5) For an order granting such other and further relief as may be necessary and appropriate.

DATED: August 8, 2008  
New York, New York

  
GREGORY F. JACOB  
Solicitor of Labor

  
PATRICIA M. RODENHAUSEN  
Regional Solicitor

  
SUSAN B. JACOBS  
Senior Trial Attorney  
SBJ (8388)

U.S. Department of Labor,  
Attorneys for Plaintiff.

POST OFFICE ADDRESS:

Patricia M. Rodenhausen  
Regional Solicitor  
U.S. Department of Labor  
201 Varick Street, Room 983  
New York, New York 10014  
Tel.: 212-337-2116  
Fax: 212-337-2112

EXHIBIT A

ABELIDO, ALEX  
ABELIDO, RAYMOND  
ABELLA, MHELLETTE  
ABIERA, DEXTER  
ADALLA, HOMER  
ADOLFO-SINDIONG, NEZL  
AGUILA, WILBERT  
AGUILLON, FAYE ROSET  
AGUON, JOCELYN  
AINA, ADENIYI  
ALACARAZ, ALLYN  
ALIGUYON, MARIONITO  
ALMEDILLA, ALANRO  
ALONZO, DONNY  
ALPUERTO, REY  
ALUNAN, COLEEN  
ANDRES, LEE-ZEL MAY  
ARANA, RACHELLE  
ARBILO, ELSA  
ARBILO, MARY CLAIRE  
ARRIESGADO, MINELEE  
ASUNTO, MARIA THERESA  
AVAGYAN, ANNA  
BABIA, ANCIETA  
BAE, SEONG IN  
BAGAPORO, MARY GRACE  
BAGUNU, MARY JANE  
BALISI, JASMIN  
BALISI, JEAN  
BANEGA, LORELIE  
BARGAS, LYNNY ANTHONY  
BARLAAN, MAUREEN  
BARRANTES, KERBIE  
BASIO, MA. PERLINA  
BAYER, DONNA  
BELARMINO, CAROLINE  
BENDANILLO, ALEX  
BENGSON, BELLA HELENA  
BORLEO, ALLAN  
BOSANO, VANESSA  
BRUAN, MICHELLE  
BUCOY, RAMILIA

BUHIAN, FRANCIS  
BULURAN, MAGNOLIA  
BURLAT, JAMES  
CABATINGAN, ANN MARIE  
CAGATA, MARK  
CAJUCOM, ANGELICA  
CALUYA, FREDERICK  
CANATOY, JASMINE  
CANDELARIO, LILYBETH  
CANO, CHEERYDETTE  
CAPILLA, BLESILA  
CAPILLA, BLESILA  
CAPISTRANO, SIEGFRIED  
CAPULE, MARYLEE  
CARINO, CHEERY  
CARLOS, MAUREEN AN  
CASIMIRO, JOY  
CASTRO, CARLOS  
CATUBLAS, DON  
CEPE, SIGRID MAE  
CHARRIS, JOAQUIN  
CHEIKO, IOULIA  
CIRIACO, MARY GRACE  
CLARIZ, MARIBEL  
CORDOVA, REMAR  
COSTALES, ARNOLD JON  
CRUZ, CHRISTINE  
CRUZ JR, VICTOR  
CUEVAS, EMMYLOU  
DADULA, MAY FATIMA  
DANAO, JANICE JANE  
DANAO, JEFFREY  
DANAO, SHERWIN  
DAYRIT, OLIVIA  
DE GUZMAN, JANICE  
DE LA CRUZ, BENILDA  
DE LA CRUZ, BENJAMIN  
DE LA PENA, IRENE  
DE PEDRO, DELIA  
DEL MUNDO, MARK  
DEL ROSARIO, ROMINA  
DELAVIN, NINA MARIE  
D'EMPAIRE, MYRIAM  
DIMATULAC, RUBENZON  
DINLAYAN, JUNIPER

DOCDOCIL, GERARD GEORGE  
DOCDOCIL, JUNIPER  
DOLORES, MILAGROS  
DUMLAO, GEORGE  
EBARDO, MAE LUCILLE  
EGHAFONA, CHRISTI  
ENERO, DJOANNA  
ENRIQUEZ, MARISOL  
ENRIQUEZ-MATULAC, CARLA  
ESCANO, RICHARD  
ESEO, MARIA A.  
ESGUERRA, ELERIA  
ESTILLER, MA. CARLOT  
ESTRELLADO, CHRIS  
EVANGELISTA, CAMILO  
FIGUEROA, AMPARO  
FLORES, ERIC  
GALLEGOS, MA. TRISHA  
GAMATERO JR, JAIME  
GANACE, HAYDEE  
GARCIA, MARY CONNIE ANN  
GARCIA, MICHAEL  
GATINAO, AILEEN  
GELILIO, MARIA ANGELICA  
GERONIMO, CHRISTINE ANNE  
GIRON, MARY GRACE  
GO, GENALIN  
GO, JACQUELINE  
GOMEZ, ORDISI  
GONZALEZ, MARIA  
GRANADEROS, SAMUEL  
GRANDEZA, TERESITA  
GUIDANGEN, GLORY  
GULTIANO, DANIEL  
GUNGON, ROSEMARIE  
GUTIEREZ, NORIE  
HIPOL, CARLO  
HISPANO, HELEN  
IGNACIO, JORDAN  
IGWE, MABEL  
ILAGAN, ARVIN  
JABIDO, PETER ARVI  
JAMANDRE, PJ  
JAVIER, RICHARD  
KHAN, AURORA



KIM, MI JUNG  
LABUNG, HARVEY  
LACHICA, JANICE  
LAFUENTE, JASON  
LAGDAMEO, ROSALINDA  
LANIP, MADELON  
LAPPAY, LEILA  
LASERNA, NOEL  
LAURON, MARIA  
LIM JR, VICTOR  
LLESOL, ANA  
LOMANTAS, EDDA  
LONGNO, ANNA  
LOPEZ, ALBERT JOEL  
LORETO, MARINEL  
LUMANGE, JAYSON  
LUMANGLAS, CECILLE  
MAGUDDAYAO, MARIFEL  
MAKAHILIG, RUEL  
MALIKSI, MARIA THERESA  
MANGALINDAN, JUALLESPER  
MANGUBAT, RYAN  
MAPESO, ANN ABIGAIL  
MARCIO, LE-ANN  
MARTIR, CRISELDA  
MENDOZA, MARY ANN  
MERCADO, JENNET  
MESA, JOHNNEMMA MARIE  
MIRANE, APRYL  
MONTELIBANO, JEAN  
MORALES, MIA  
MORALES, REDON  
MOSCOSO, TERESITA  
MUNOZ, LESLIE  
NAYAN, LALYN  
NILDA, NACAR  
NIMNUAN, ARISA  
NODADO, MARIANNE  
OCAMPO, ELOISA  
ODIHIRIN, ADESUA  
OJETOLA, ADEKOLA  
OKEKE, VICTORIA  
OLAMIDE, AKERELE  
OPENA, MIRIAM  
ORDENIZA, MARIE CARMEL

PAGADOR, MARIE GLOU  
PALAYAN, MICHELLE  
PALMERA, ANNA LIZA  
PEDRAZA, GEMMA  
PEREZ, MA. NOREEN  
PETATE, ERIC  
PHARUNS, NANCY  
POLOYAPOY, DENNIS  
PRINCIPE JR, POLONIO  
PUABEN, MADELEINE  
PUCAPUTAN, MA. RHEA  
QUINTILLAN, SARAH RASHIDA  
QUIRMIT, APRILEA  
RAMIREZ, RACHELLE  
RAMOS, EARL NICHOLAS  
RAMOS, JESUSA  
RANIT, BERNADETTE  
RAYMUNDO, ROSENDA  
RIVERA, GENEVIEVE  
RIVERA, MARY GRACE  
ROBLE, THOMAS JAY  
ROCA, JENNIE PEARL  
RONQUILLO, JANET  
ROSALES, MARIA  
RUDIS, ROGINA  
SABILE, NOEMI  
SAGARINO JR, PERFECTO  
SALDITOS, SANDRA  
SAMONTE JR, LEOPOLDO  
SAMSON, ROVY  
SAN PEDRO, JAMES  
SANTIAGO, CATHERINE  
SANTOS, ANDRE NINO  
SANTOYO, CECILLE  
SARMOGENES, MEIDEN  
SECRETARIO, CRISTY JOY  
SEMBRANO, WAYNE  
SENCIO, EGBERT  
SERRANO, TISHA  
SHUTTI, CHRISTINE  
SIA, SUSAN  
SILVESTRE JR, ALFONSO  
SONER, MARY JANE  
SORIA, JOY  
STO. THOMAS, VINCENT

SUAREZ, ROLAND  
TAEZA, GENEVIEVE  
TALADUA, KARYLL KRISTIN  
TAMAYAO, ELIZABETH  
TAN, MAY PAZ  
TAN, ROMMEL  
TE, DEXTER  
TEMPROSA, MARGARITA C.  
TERRY, SYLVIA  
TIRONA, VIOLETA  
TIU, JULIUS  
TRINIDAD, MARFLOR  
UCHE, VICTORIA  
UNATING, CHERRY  
UY, JEFFERSON  
VASQUEZ, MARIA CONCEPSION  
VENKAT, MUDUMBA  
VERSOZA, IRMINA  
VICENCIO, LINETTE  
VICOY, DOREEN  
VILLAPANDO, LADY THERESE  
WILMER, REMIGOSO  
YAMSON, JESSICA  
YANG, WENJIE  
YEUNG, MARK CHESTER  
YULO, RENEE